

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD MARKET
DEVELOPMENT COMMITTEE

IN THE MATTER OF THE:)
SPECIAL MEETING OF THE)
MARKET DEVELOPMENT)
COMMITTEE)
_____)

DATE AND TIME: TUESDAY, MAY 27, 1997
1:30 P.M.

PLACE: BOARD HEARING ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
CERTIFICATE NO. 7152

BRS FILE NO.: 39984

APPEARANCES MR. PAUL RELIS,
CHAIRMAN MR. WESLEY CHESBRO, MEMBER
MR. DANIEL G. PENNINGTON, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, CHIEF EXECUTIVE OFFICER
MS. DEBORAH BORZELLERI, LEGAL COUNSEL

MS. WENDY ROBERSON, COMMITTEE SECRETARY

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1 SACRAMENTO, CALIFORNIA; TUESDAY, MAY 27, 1997

2 1:30 P.M.

3

4 CHAIRMAN RELIS: WE'LL CALL TO ORDER THE

5 MARKET DEVELOPMENT COMMITTEE. LET'S CALL THE

6 ROLL.

7 THE SECRETARY: MEMBER CHESBRO.

8 MEMBER CHESBRO: HERE.

9 THE SECRETARY: MEMBER PENNINGTON.

10 MEMBER PENNINGTON: HERE.

11 THE SECRETARY: CHAIRMAN RELIS.

12 CHAIRMAN RELIS: HERE.

13 OKAY. I'LL NOW CALL ON MS.

14 TRGOVCICH TO INTRODUCE OUR AGENDA TODAY.

15 MS. TRGOVCICH: THANK YOU, MR.

CHAIRMAN

16 AND MEMBERS. I'M CAREN TRGOVCICH, DEPUTY

DIRECTOR

17 OF THE WASTE PREVENTION AND MARKET

DEVELOPMENT

18 DIVISION. YOU KNOW, I WAS TAKEN BY SURPRISE

HERE

19 THIS MORNING. I THOUGHT THAT ITEM NO. 2,

THE

20 REGULATIONS, WERE GOING TO COME UP FIRST.

SO I'M

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21 REREADING MY AGENDA RIGHT NOW.

22 CHAIRMAN RELIS: HOW MUCH TIME DO
YOU

23 NEED?

24 MS. TRGOVCICH: HOW ABOUT ONE
SECOND.

25 LET'S MOVE TO ITEM NO. 1 ON YOUR AGENDA,
WHICH IS

1 CONSIDERATION OF PROCEDURAL ISSUES REGARDING
2 IRONCLAD, INC.'S, PETITION FOR VARIANCE FROM
3 RECYCLED-CONTENT TRASH BAG REQUIREMENTS PURSUANT
4 TO PUBLIC RESOURCES CODE SECTION 42298.

5 BEFORE JERRY HART PRESENTS THIS
6 ITEM, I'D JUST LIKE TO BRIEFLY REMIND THE
7 COMMITTEE THAT THIS WILL BE A TWO-PART OR A
8 TWO-PHASE PROCESS THAT YOU ARE INITIATING HERE.
9 THE PHASE THAT'S BEFORE YOU FOR CONSIDERATION
10 TODAY ARE THE PROCEDURES THAT YOU WANT TO FOLLOW,
11 AND SUBSEQUENTLY YOU WILL BE HEARING THE ACTUAL
12 VARIANCE REQUEST. AND I JUST WANT TO REMIND YOU
13 THAT THIS IS NOT THE ACTUAL VARIANCE HEARING,
14 MERELY THE PROCEDURES.

15 AND WITH THAT, I'LL TURN IT OVER TO
16 JERRY HART.

17 CHAIRMAN RELIS: JERRY, BEFORE YOU
BEGIN,

18 I'D JUST LIKE TO MAKE NOTE THAT ANYONE WISHING
TO

19 ADDRESS THE COMMITTEE SHOULD FILL OUT A
SPEAKER'S

20 FORM AND BRING IT FORWARD. THANK YOU.

21 MR. HART: GOOD AFTERNOON, MR.
CHAIRMAN,

22 COMMITTEE MEMBERS. MY NAME IS JERRY HART. AND

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23 WE'RE HERE TO DISCUSS THE PROCEDURE BY WHICH WE
24 WILL CONDUCT THE PUBLIC HEARING FOR THE
PETITION
25 FOR VARIANCE FROM THE REGULATIONS AND
REQUIREMENTS

1 REGARDING TRASH BAGS.

2 WE HAVE A STATUTE WHICH LAYS OUT
3 SOME FAIRLY SPECIFIC PROCEDURES AND GUIDELINES
FOR

4 THE BOARD TO CONDUCT A PUBLIC HEARING; BUT WITH
5 OUR COMMITTEE STRUCTURE AND THE BOARD
STRUCTURE,

6 WE WANTED TO COME BEFORE YOU TO GET YOUR
GUIDANCE

7 ON WHETHER WE WOULD CONDUCT THE PUBLIC HEARING
AT

8 A MARKET DEVELOPMENT COMMITTEE MEETING AND
FORWARD

9 THAT, THE COMMITTEE'S RECOMMENDATION, TO THE
BOARD

10 OR WHETHER WE CONDUCT TWO PUBLIC HEARINGS, ONE
AT

11 THE COMMITTEE, ANOTHER ONE AT THE BOARD, OR

12 WHETHER PERHAPS WE WOULD TURN THIS OVER TO THE

13 EXECUTIVE DIRECTOR FOR HIM TO CONDUCT THE
PUBLIC

14 HEARING AT A TIME AND DATE TO BE CONSIDERED.

15 SO WE'RE REALLY HERE TO KIND OF
GET

16 YOUR INPUT ON HOW THE COMMITTEE WOULD BE
INVOLVED

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17 IN CONDUCTING THE PUBLIC HEARING REGARDING
18 IRONCLAD'S PETITION FOR VARIANCE.

19 CHAIRMAN RELIS: OKAY. AND YOU'VE
MADE A

20 RECOMMENDATION.

21 MR. HART: STAFF'S RECOMMENDATION IS
THAT

22 WE CONDUCT ONE PUBLIC HEARING AT A BOARD
MEETING

23 AND NOT CONDUCT MULTIPLE HEARINGS, JUST TRY TO
DO

24 IT ONCE. WE HAVE -- AGAIN, WE HAVE SOME
25 ASSISTANCE WITH THE STATUTE. WE HAVE FURTHER

1 ASSISTANCE WITH THE LIST OF EVIDENCE AND THE
2 CRITERIA TO BE USED IN THE EVALUATION THAT WAS
3 RECENTLY, LAST WEEK, I BELIEVE, ADOPTED BY OAL.
4 THOSE REGULATIONS ARE NOW IN PLACE AND OFFICIAL.
5 SO WE'RE HOPING THAT WE CAN CONDUCT A HEARING ONCE
6 AT A BOARD MEETING.

7 CHAIRMAN RELIS: OKAY. ANY QUESTIONS AT
8 THIS POINT? WE HAVE GENE LIVINGSTON WHO HAS
9 SUBMITTED A SLIP, SO IF WOULD YOU COME FORWARD,
10 MR. LIVINGSTON.

11 MR. LIVINGSTON: I'M GENE LIVINGSTON WITH
12 LIVINGSTON & MATTESICH REPRESENTING IRONCLAD. AND
13 I WOULD LIKE TO SUPPORT THE STAFF'S RECOMMEN-
14 DATION, THAT WE HAVE AN OPPORTUNITY TO PRESENT
15 THIS EVIDENCE TO THE BOARD, FULL BOARD, WITHOUT
16 HAVING TO GO THROUGH COMMITTEE INITIALLY. AND I
17 THINK THERE ARE A COUPLE OF REASONS FOR THAT, BUT
18 PRINCIPALLY IT'S JUST ECONOMY FOR US WHERE WE ARE
19 ANTICIPATING BRINGING WITNESSES FROM OUT OF TOWN,
20 AND IT WOULD BE MORE EFFICIENT IF WE WERE ABLE TO
21 PRESENT IT TO THE FULL BOARD ONE TIME.

22 THE OTHER ASPECT OF THAT IS THAT
23 WE'RE ANTICIPATING RIGHT NOW THAT THIS HEARING MAY
24 TAKE THREE TO FOUR HOURS, SO THERE WOULD BE A
25 SUBSTANTIAL INVESTMENT OF TIME, AT LEAST ON
THE

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1 PART OF THE THREE YOU, IF YOU WERE TO HEAR IT
2 FIRST AND THEN TO HEAR IT AGAIN AS PART OF THE
3 FULL BOARD. SO WE WOULD RECOMMEND THE STAFF'S
4 POSITION.

5 CHAIRMAN RELIS: JUST EXCUSE ME. THREE
6 TO FOUR HOURS, IS THIS FROM IRONCLAD'S SIDE? IS
7 THAT YOUR TIME ESTIMATE ON YOUR NEEDS?

8 MR. LIVINGTSON: WELL, THAT ANTICIPATES
9 HAVING TO RESPOND -- THAT ANTICIPATES THERE BEING
10 SOME OPPOSITION AND RESPONDING TO SOME OPPOSITION.
11 BUT IN ORDER TO PRESENT THE HISTORY, THE PROCESS,
12 AND THE STUDIES THAT WE HAVE DONE, AND TO
13 DEMONSTRATE THE CONSEQUENCES OF THE VARIANCE, WE
14 THINK THAT THAT'S THE KIND OF TIME FRAME WE'RE
15 LOOKING AT UNLESS, OF COURSE, SOMEONE TELLS ME
16 THAT THAT'S UNREALISTIC, IN WHICH CASE WE'LL
17 ACCOMMODATE THAT, BUT...

18 CHAIRMAN RELIS: WELL, THAT JUST AS A
19 PRACTICAL MATTER, FROM OUR NORMAL DAILY AGENDA,
20 THAT WON'T, I DON'T THINK, CUT IT AS FAR AS AN
21 ITEM THAT WOULD BE TAKEN UP IN A REGULAR DAILY OR
22 MONTHLY BOARD AGENDA. IT WOULD HAVE TO BE A
23 SECOND DAY.

24 MS. TRGOVCICH: I WOULD CERTAINLY DEFER
25 TO COUNSEL, BUT I BELIEVE THAT BECAUSE THIS IS A

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1 SEPARATE HEARING REQUIRED UNDER STATUTE, YOU WOULD
2 NEED TO OPEN A SEPARATE PUBLIC HEARING AROUND
3 THIS.

4 I'D JUST LIKE TO POINT OUT FOR THE
5 RECORD THAT WHILE MR. LIVINGSTON MAY BE MOST
6 INTERESTED IN ECONOMIES TO BE GAINED BY MAKING A
7 PRESENTATION ONLY ONCE, FROM THE STAFF PERSPEC-
8 TIVE, WHAT IS DRIVING THE STAFF RECOMMENDATION IS
9 NOT A SINGLE PRESENTATION, BUT RATHER CONSISTENCY
10 WITH OTHER BOARD ACTIONS AS IT RELATES TO PLAN
11 ENFORCEMENT PROCEDURES, AS WELL AS AB 59 HEARING
12 APPEAL PROCEDURES, SO IT IS A CONSISTENCY ISSUE,
13 AS WELL AS PROVIDING AN OPPORTUNITY TO THE
14 VARIANCE REQUESTER, GIVEN THE FACT THAT THE
15 REGULATIONS DO NOT ALLOW THEM TO PRESENT ANY
16 CONFIDENTIAL INFORMATION, TO BE ABLE TO RETAIN
17 SOME SENSE OF THE PROPRIETARY NATURE OF THE
18 INFORMATION TO BE PRESENTED. BUT WHAT IS
DRIVING

19 OUR RECOMMENDATION PRINCIPALLY IS THE
RELATIONSHIP

20 AND CONSISTENCY TO RECENTLY ADOPTED BOARD
21 PRACTICES IN BOTH THE PLANNING AND ENFORCEMENT
22 ARENAS.

23 MEMBER PENNINGTON: MR. CHAIRMAN, I'D
24 MOVE THAT WE ADOPT STAFF'S RECOMMENDATION,

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OPTION

25 NO. 3.

1 CHAIRMAN RELIS: ARE YOU DONE?

2 MR. LIVINGSTON: YES.

3 CHAIRMAN RELIS: OKAY. IS THERE A
4 SECOND? I'LL SECOND THAT.

5 MEMBER CHESBRO: MR. CHAIRMAN, I'M KIND
6 OF CONFUSED. YOU KNOW, WE'RE HAVING A COMMITTEE
7 DISCUSSION ABOUT WHETHER OR NOT TO HOLD THE
8 COMMITTEE DISCUSSION. WE JUST SHOULD HAVE HELD
9 THE COMMITTEE DISCUSSION ON THE ITEM. TO ME IT
10 SEEMS -- PEOPLE HAVE BEEN FLOWN INTO TOWN TO LOBBY
11 ME ON WHETHER OR NOT WE SHOULD HAVE A COMMITTEE
12 DISCUSSION. I'D MUCH PREFER WE WOULD HAVE GOTTEN
13 RIGHT IN, GOTTEN TO WORK, ROLLED OUR SLEEVES UP,
14 AND HAD THE FULL DISCUSSION.

15 IN GENERAL, IN FACT, IT HAS BEEN
16 THIS BOARD'S PRACTICE TO ACCEPT IN EXTRAORDINARY
17 CIRCUMSTANCES AND SPECIFIC INSTANCES WHERE THERE'S
18 A REAL STRONG ARGUMENT TO UPHOLD THE COMMITTEE
19 STRUCTURE AND UTILIZE IT WHENEVER POSSIBLE. I
20 THINK THAT THE REASON FOR THAT IS THAT IT PROVIDES
21 A GUARANTEE THAT THE INFORMATION WILL BE OUT
22 EARLY, THAT THERE'S AN OPPORTUNITY FOR A
23 PREDISCUSSION, AND FOR ALL OF THE PARTIES TO HAVE
24 THE OPPORTUNITY TO REVIEW AND DIGEST AND RESPOND
25 TO WHATEVER INFORMATION HAS BEEN SUBMITTED

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1 PRELIMINARY AT A COMMITTEE LEVEL. AND THAT'S WHY
2 WE HAVE COMMITTEES. IT'S ONE OF THE REASONS. AND
3 I THINK THAT WORKS QUITE WELL.

4 AND I WOULD HOPE THAT IF WE WERE
5 GOING TO GO DIRECTLY TO THE BOARD, THAT AT MINIMUM
6 WE WOULD REQUIRE THAT ALL THE WRITTEN SUBMITTALS
7 BE BROUGHT FORWARD BY SOME SORT OF A DATE SO THAT
8 ALL THE PARTIES WOULD HAVE A CHANCE TO RESPOND. I
9 DO NOT WANT TO GO INTO A PUBLIC HEARING AT THE
10 BOARD LEVEL WITHOUT THE OPPORTUNITY TO -- NOT JUST
11 ME AS A BOARD MEMBER, BUT ALSO OTHER INTERESTED
12 PARTIES TO HAVE THE CHANCE TO REVIEW AND RESPOND
13 TO MATERIAL. I THINK THE COMMITTEE MEETING IS THE
14 BEST WAY TO DO THAT; BUT IF I LOSE ON THAT, I'D AT
15 LEAST HOPE THAT THE -- MY COLLEAGUES WOULD
16 AGREE --

17 CHAIRMAN RELIS: MS. TRGOVCICH, PERHAPS
18 YOU COULD TELL IT BECAUSE I THINK THAT WE WOULD
19 ALL SHARE MR. CHESBRO'S CONCERN. THIS IS GOING TO
20 BE A BIG ISSUE FOR -- HAVING ADEQUATE PREP TIME, I
21 THINK, IS CRITICAL. SO WHAT ASSURANCES WOULD WE
22 HAVE IF WE WERE TO GO THIS ROUTE WE WOULD HAVE THE
23 MATERIAL IN A TIMELY WAY, MEANING I ASSUME AT
24 LEAST A WEEK IN ADVANCE?

25 MS. TRGOVCICH: WE HAVE COMMITTED TO

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1 FOLLOWING THE STANDARD COMMITTEE BOARD SCHEDULE SO
2 THAT THE PACKET ITEMS ARE OUT A MINIMUM OF ONE
3 WEEK IN ADVANCE. AND WE HAVE, IN FACT, NOTIFIED
4 IRONCLAD OF A PROPOSED SCHEDULE WHICH WOULD
5 PROVIDE US WITH SEVERAL WEEKS, TWO TO THREE WEEKS,
6 FOR ANALYSIS OF THE INFORMATION, TIME TO PREPARE
7 THE AGENDA ITEM. AND THAT WOULD ALL BE READY THEN
8 IN ADVANCE OF BE IT THE COMMITTEE MEETING OR BOARD
9 MEETING, WHICHEVER OPTION YOU CHOOSE TODAY, AND IT
10 WOULD BE NOT ONLY AVAILABLE, BUT AVAILABLE WELL IN
11 ADVANCE SO THAT THE ITEM WILL BE OUT NOT JUST FOR
12 YOUR REVIEW AT LEAST A WEEK IN ADVANCE, BUT
13 AVAILABLE FOR REVIEW OF OTHER INTERESTED PARTIES
14 AS WELL.

15 MEMBER PENNINGTON: MR. CHESBRO, IF YOU
16 WANT THAT TO BE PART OF MY MOTION, I WOULD HAVE NO
17 PROBLEM WITH THAT. I DON'T MIND TO SAY THAT THEY
18 HAVE TO GIVE US ALL THE WRITTEN MATERIAL TEN DAYS
19 IN ADVANCE.

20 MEMBER CHESBRO: THAT WOULD CERTAINLY BE
21 HELPFUL, I THINK. BUT ALSO THERE'S A QUESTION OF
22 US WHEN WE MAKE IT AVAILABLE. THE BOARD AGENDA
23 PACKET GETS IN MOST PEOPLE'S HANDS FIVE OR SIX
24 DAYS PRIOR TO THE BOARD MEETING, AND THAT'S WAY
25 SHORT OF WHAT WOULD OCCUR IF THERE WAS A COMMITTEE

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1 MEETING.

2 MS. TRGOVCICH: JERRY, JUST ASK YOU: HOW
3 MUCH TIME DO WE ANTICIPATE TO PROVIDE IT TO ANY
4 OUTSIDE PARTIES IN ADVANCE OF BE IT A COMMITTEE
5 MEETING OR BOARD MEETING TO HEAR THE ITEM?

6 MR. HART: SAY AGAIN. HOW MUCH TIME
7 WOULD WE HAVE THE ITEM.

8 MS. TRGOVCICH: AVAILABLE IN PRINT FOR
9 REVIEW EITHER BE IT BY BOARD MEMBERS OR BY OTHER
10 INTERESTED PARTIES IN ADVANCE OF THE PUBLIC
11 HEARINGS.

12 MR. HART: I DON'T KNOW. THE ONLY DATE I
13 KNOW IS THAT WE INFORMED IRONCLAD THURSDAY THAT WE
14 WOULD LIKE TO HAVE THE INFORMATION IN THREE WEEKS.
15 WE GAVE THEM A THREE-WEEK TURNAROUND TIME. AND SO
16 I BELIEVE THAT'S THE 15TH OR SOMETHING IN THAT
17 NATURE. THEN WE'RE ON RECORD IN THIS ITEM
18 REQUESTING THREE WEEKS FOR THE ANALYSIS. AND I
19 DON'T KNOW, YOU KNOW, THAT WE WILL HAVE THAT MUCH
20 TIME OR, IN FACT, NEED THAT MUCH TIME; BUT WE'RE
21 PREPARED, AS YOU SAID, TO FOLD THE ANALYSIS
22 SECTION INTO THE AGENDA ITEM OF WHICHEVER MEETING
23 WE GO FORWARD WITH THE PUBLIC HEARING. SO --

24 CHAIRMAN RELIS: TENTATIVELY JULY, WAS
25 THAT YOUR...

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1 MS. TRGOVCICH: CORRECT. IT'S MY
2 UNDERSTANDING THAT THERE HAVE BEEN DISCUSSIONS,
3 BECAUSE THIS IS A PUBLIC HEARING THAT MUST BE
4 CONVENED IN AND OF ITSELF, THAT THERE ARE
5 DISCUSSIONS THAT THIS MAY NOT NEED TO OCCUR
6 NECESSARILY AT THE JULY BOARD MEETING, BUT COULD
7 OCCUR AND PROVIDE MORE TIME FOR THE BOARD'S
8 CONSIDERATION, YOU KNOW, IN THE AFTERNOON OF A DAY
9 IN WHICH A COMMITTEE MEETING IS SCHEDULED; FOR
10 EXAMPLE, SOMETIME IN JULY, THAT THERE WAS A
11 CONCERN THAT THERE WOULD NOT BE ENOUGH TIME AT THE
12 BOARD MEETING ITSELF.

13 AND SO THERE MAY BE AN OPPORTUNITY
14 TO SCHEDULE A SPECIAL BOARD MEETING TO BE ABLE TO
15 HEAR THE TESTIMONY AROUND THIS ITEM SOMETIME IN
16 THE JULY TIME FRAME. BUT ONCE AGAIN, THAT IS
17 CONTINGENT ON OUR RECEIPT OF THE INFORMATION. WE
18 AS STAFF HAVE NOT LOOKED AT THIS TYPE OF INFORMA-
19 TION BEFORE. WE DO NOT KNOW WHAT IS GOING TO BE
20 SUBMITTED TO US AT THIS TIME. IN THE REGULATIONS
21 THAT YOU ALL APPROVED AND WERE APPROVED BY OAL, IT
22 PROVIDES A RANGE OF PARAMETERS THAT IRONCLAD MAY
23 WISH TO SUBMIT INFORMATION UNDER.

24 CHAIRMAN RELIS: WELL, I THINK, THEN,
25 WHAT WE'RE TALKING ABOUT IS THE COMFORT LEVEL OF

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1 THE COMMITTEE REGARDING THE TIME FRAME. AND SO --

2 MEMBER PENNINGTON: TEN DAYS?

3 MEMBER CHESBRO: I'D LIKE FOR THE
4 DOCUMENTS TO BE AVAILABLE TEN DAYS IN ADVANCE OF
5 THE BOARD MEETING. THAT PRESUMES THAT YOU THEN
6 NEED TO ASK THEM FOR IT SOMETIME PRIOR TO THAT,
7 WHATEVER STAFF THINKS.

8 MEMBER PENNINGTON: RIGHT. SO MY MOTION
9 SHOULD READ THAT I MOVE STAFF RECOMMENDATION
10 OPTION 3 WITH A REQUIREMENT THAT ALL WRITTEN
11 MATERIAL BE SUBMITTED TO BOARD MEMBERS TEN DAYS
12 PRIOR TO THE HEARING DATE.

13 MS. TRGOVCICH: CAN I ASK FOR
14 CLARIFICATION? IS THAT TEN WORKING OR CALENDAR
15 DAYS?

16 MEMBER CHESBRO: WORKING DAYS.

17 MEMBER PENNINGTON: WORKING DAYS. THAT'S
18 BASICALLY TWO WEEKS.

19 MR. HART: ANOTHER CLARIFICATION
20 QUESTION. ARE YOU ASKING FOR COPIES OF THE
21 DOCUMENTATION THAT WE RECEIVE FROM IRONCLAD, OR
22 WOULD THAT INCLUDE, AFTER REVIEW AND ANALYSIS,
23 STAFF'S ANALYSIS?

24 CHAIRMAN RELIS: MR. PENNINGTON, I WAS
25 GOING TO SUGGEST. I THINK THE FEELING OF THE

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1 COMMITTEE, IF I CAN SPEAK FOR THAT, WOULD BE WE
2 WANT A COMPLETE ITEM, MEANING WE DON'T WANT A
3 PARTIAL, SOMETHING APPEARING FIVE DAYS BEFORE THAT
4 IS A DEPARTURE. WE WANT THE WHOLE ITEM IN ITS
5 ENTIRETY. AND IF IT WEREN'T TO BE THERE ON TIME,
6 I SUPPOSE WE WOULD PULL THE MATTER.

7 MEMBER PENNINGTON: DOES THAT SATISFY
8 WHAT YOU ARE ASKING ABOUT?

9 MR. HART: I GUESS I'D LIKE TO SEE A
10 CALENDAR. BECAUSE WE'VE ALREADY REQUESTED THE
11 INFORMATION WITHIN THREE WEEKS FROM IRONCLAD, SO
12 IF THAT'S JUNE --

13 MR. CHANDLER: DON'T WORRY, JERRY. I
14 THINK WHAT I HEAR THE COMMITTEE SAYING IS DON'T
15 WORRY ABOUT LOOKING AT THIS DIRECTION FROM A POINT
16 GOING BACK, BUT A POINT GOING FORWARD. YOU'RE
17 GOING TO GET THEIR INFORMATION IN THREE WEEKS FROM
18 THEM. YOU'RE GOING TO TAKE TWO TO THREE WEEKS TO
19 ANALYZE IT, AND THEN YOU'RE GOING TO PUT YOUR
20 STAFF WORK TOGETHER.

21 AS MR. RELIS SAID, THAT WILL BE
22 COMPLETE IN ITS TOTAL. ONCE YOU'RE AT A POINT
23 WHERE YOU THINK YOU'VE GOT YOUR APPROVALS FROM
24 CAREN AND I AND YOU'RE READY TO GO TO PRINT, THEN
25 WE'LL NOTIFY THE APPLICANT. AND THEN SAY WE'RE

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1 NOW GOING TO SET THE HEARING DATE, AND THAT WILL
2 BE TEN DAYS OUT OR 11 DAYS OUT TO MAKE SURE THAT
3 IT'S IN THE MAIL THAT DAY AND THAT IT'S TRULY TEN
4 WORKING DAYS FROM THAT DATE FORWARD. SO WE'LL
5 HAVE TO SET A DATE.

6 AND WE'RE ADVANTAGED BY THE FACT
7 THAT WE'RE NOT WORKING OFF OF A BOARD CALENDAR OR
8 ANY COMMITTEE CALENDAR. WE'LL JUST SET THE
9 HEARING DATE, AND IT MAY BE 15 DAYS OUT BECAUSE
10 WE'LL HAVE TO FIGURE OUT WHEN WE CAN ACTUALLY GET
11 EVERYBODY -- ALL THE BOARD MEMBERS TOGETHER, BUT
12 IT WILL BE A MINIMUM OF TEN DAYS FROM WHEN YOU GOT
13 YOUR WORK COMPLETED AND SIGNED OFF.

14 MR. HART: I JUST WANTED TO MAKE SURE WE
15 WEREN'T PINCHED ON BOTH SIDES.

16 MR. CHANDLER: THAT'S WHAT I'M HEARING
17 THE COMMITTEE'S REQUEST TO BE.

18 CHAIRMAN RELIS: THAT'S A CORRECT
19 INTERPRETATION.

20 MEMBER CHESBRO: THE OTHER CONCERN I HAVE
21 IS THIS ARGUMENT ABOUT PRECEDENT, THAT, WELL,
22 BECAUSE WE'VE DONE IT IN SOME CASES. I DON'T WANT
23 TO CREATE THE STAFF DIRECTION OUT OF AN ACTION
24 LIKE THIS THAT SAYS, WELL, LET'S START, SEND ALL
25 KINDS OF THINGS DIRECTLY TO THE BOARD.

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1 I SUPPORTED THE DECISION TO -- WITH
2 THE PLANNING AND ENFORCEMENT ITEMS, THE DIVERSION
3 ENFORCEMENT ITEMS, TO COME DIRECTLY TO THE BOARD
4 FOR A COUPLE REASONS. ONE WAS MANY OF THE
5 JURISDICTIONS ARE SMALL JURISDICTIONS WITH NO
6 TRAVEL BUDGET. AND SO REQUIRING THEM TO COME TO
7 SACRAMENTO TWICE IN A MONTH WAS A SERIOUS CONCERN.
8 AND SECONDLY WAS THE POTENTIAL -- DOESN'T SEEM TO
9 BE MATERIALIZING AT THIS POINT -- BUT THE
10 POTENTIAL FOR A LARGE NUMBER OF THEM WAS ANOTHER
11 ISSUE.

12 BUT I WOULD REALLY HOPE THAT WE
13 WOULDN'T SAY, WELL, WE'VE SET A PRECEDENT SO,
14 THEREFORE, WE'RE GOING TO START SEEING AN
15 INCREASING NUMBER OF ITEMS COMING DIRECTLY TO THE
16 BOARD. I THINK THE COMMITTEE STRUCTURE HAS ON A
17 NUMBER OF THESE ITEMS WORKED QUITE WELL, AND WE
18 SHOULD CONTINUE TO UPHOLD IT AND UTILIZE IT.

19 CHAIRMAN RELIS: MR. CHESBRO, I DON'T --
20 AT LEAST THIS MEMBER DOESN'T VIEW THIS AS A
21 PRECEDENT. I'M CONCERNED ABOUT OUR STAFF
22 RESOURCES AND OUR ABILITY TO DEAL WITH THIS
23 MATTER. IT'S GOING TO BE LENGTHY. WE'LL HAVE THE
24 MATERIAL IN ADVANCE. AND IT'S AN ALLOCATION --
25 RESOURCE ALLOCATION CONCERN FOR ME.

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1 SO ANYWAY, I THINK IT'S TIME TO CALL
2 THE VOTE. MR. PENNINGTON, YOU MADE THE MOTION.
3 IT WAS SECONDED. CALL THE ROLL.

4 THE SECRETARY: MEMBER CHESBRO.

5 MEMBER CHESBRO: NO.

6 THE SECRETARY: MEMBER PENNINGTON.

7 MEMBER PENNINGTON: AYE.

8 THE SECRETARY: CHAIRMAN RELIS.

9 CHAIRMAN RELIS: AYE. OKAY. THAT WILL
10 BE DEALT WITH TOMORROW, I GUESS.

11 MS. TRGOVCICH: THAT WILL BE DEALT WITH
12 ON TOMORROW'S AGENDA.

13 CHAIRMAN RELIS: OKAY. NOW WE'LL MOVE TO
14 ITEM 2.

15 MS. TRGOVCICH: ITEM 2 ON YOUR AGENDA IS
16 CONSIDERATION OF THE ADOPTION OF PROPOSED
17 REGULATIONS TO THE RECYCLING MARKET DEVELOPMENT
18 REVOLVING LOAN PROGRAM. AS CALVIN YOUNG COMES UP
19 TO TAKE A SEAT HERE, I'D JUST LIKE TO PROVIDE A
20 FEW WORDS OF INTRODUCTION.

21 THIS IS THE CONCLUSION OF THE FIRST
22 15-DAY COMMENT PERIOD OF THESE REGULATIONS
23 FOLLOWING THE INITIAL 45-DAY COMMENT PERIOD THAT
24 OCCURRED EARLIER THIS SPRING. AS A RESULT OF THE
25 INITIAL 45-DAY COMMENT PERIOD, WE RECEIVED MANY

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1 COMMENTS. WE HAD, IN FACT, SOLICITED BROAD
2 COMMENTS SO THAT WE COULD TAKE WHATEVER ACTION WAS
3 NECESSARY AROUND THIS PROGRAM FOR PURPOSES OF
4 THESE REGULATIONS TO MAKE IT MORE EFFECTIVE.

5 THAT COMMENT PERIOD RESULTED IN A
6 NUMBER OF CHANGES THAT WERE BROUGHT BEFORE THE
7 MARKET DEVELOPMENT COMMITTEE THAT THE COMMITTEE
8 ADOPTED AND PROVIDED STAFF DIRECTION ON.

9 THE CONCLUSION OF TODAY'S COMMENT
10 PERIOD, 15-DAY PERIOD, THEN MARKS THE NEXT PHASE
11 IN THIS REGULATIONS PROCEEDINGS. AND I'M GOING
12 TO
13 TURN IT OVER TO CALVIN YOUNG TO THEN SUMMARIZE
14 THE
15 15-DAY PROCEEDINGS FOR YOU.

16 MR. YOUNG: CALVIN YOUNG WITH THE
17 RECYCLING BUSINESS ASSISTANCE BRANCH. GOOD
18 AFTERNOON.

19 MEMBER PENNINGTON: HOW ARE YOU, CALVIN?

20 MR. YOUNG: BETTER THAN I WAS LAST TIME.
21 I'VE GOTTEN MORE SLEEP THIS TIME.

22 AS CAREN INTRODUCED, THIS IS INDEED
23 COMING BACK FOR THE SUBSEQUENT 15-DAY PERIOD.
THE

24 NOTICE WAS MAILED ON MAY 9TH, AND THE 15-DAY
25 PERIOD, BECAUSE OF THE WEEKENDS AND HOLIDAYS,

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ENDS

24 TODAY .

25 THE -- DO YOU WANT ME TO GO OVER
THE

1 INITIAL PURPOSE OF THE REGS OR --

2 CHAIRMAN RELIS: YES.

3 MR. YOUNG: THE INITIAL PURPOSE FOR THE
4 CHANGING OF THE REGS WAS TO BASICALLY CHANGE FROM
5 A QUARTERLY APPLICATION CYCLE TO AN ONGOING
6 APPLICATION CYCLE, TO INCREASE THE NUMBER OF LOAN
7 COMMITTEE MEMBERS TO ENSURE A QUORUM, TO ADD
8 SOURCE REDUCTION AS AN ELIGIBLE ACTIVITY UNDER THE
9 PROGRAM, AND TO MAKE OTHER CLARIFYING AND STREAM-
10 LINING CHANGES.

11 WE AGAIN INCORPORATED THOSE, WENT
12 OUT FOR THE 45-DAY PERIOD, RECEIVED FOUR PUBLIC
13 COMMENTS, FOUR SETS OF PUBLIC COMMENTS, BACK ALL
14 GERMANE TO THE CHANGES. WITH THE DIRECTION FROM
15 THE COMMITTEE, WENT BACK, MADE THOSE CHANGES, WENT
16 OUT FOR THE SUBSEQUENT 15-DAY PERIOD. WE HAVE
17 RECEIVED ONE SET OF PUBLIC COMMENTS, AND THOSE
18 PUBLIC COMMENTS ACTUALLY RELATE TO THE 45-DAY
19 CHANGES, NOT THE 15-DAY CHANGES. SO THEY'RE
20 ESSENTIALLY REITERATING THE COMMENTER'S PREVIOUS
21 COMMENTS FOR THE 45-DAY.

22 ESSENTIALLY WHAT IS CHANGING IN THIS
23 15-DAY PERIOD IS MAKING VARIOUS CLARIFICATIONS,
24 CONFIRMING THAT THE ADDITIONAL PRIORITIES WILL BE
25 REVIEWED ON AN ANNUAL BASIS, MAKING SOME CHANGES

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1 REGARDING LOAN COMMITTEE MEMBERSHIP, AS WELL AS
2 THE RESPONSIBILITIES OF THE LOAN COMMITTEE,
3 SETTING FORTH IN REGULATION THE PREVIOUS POLICY OF
4 A LOAN COMMITMENT BEING VALID FOR 180 DAYS FROM
5 BOARD APPROVAL, AND CLARIFICATION OF THE
6 ELIGIBILITY AND PROCESS OF LOANS THAT ARE FUNDED
7 FROM THE CALIFORNIA TIRE RECYCLING MANAGEMENT
8 FUND.

9 AT THIS POINT STAFF WOULD RECOMMEND
10 THAT THE COMMITTEE BASICALLY RECOMMEND TO THE
11 BOARD ADOPTION OF THE PROPOSED REG PROVIDED WE
12 RECEIVE NO ADDITIONAL SIGNIFICANT CHANGES TODAY.
13 THERE'S NO SIGNIFICANT CHANGES AS A RESULT OF
14 COMMENTS RECEIVED DURING THE 15-DAY PERIOD.

15 MEMBER PENNINGTON: I JUST HAVE ONE
16 QUESTION, CALVIN. ON PAGE 43 UNDER THE SECTION
17 "CREDIT AND LEGAL INFORMATION," DID WE NOT TALK
18 ABOUT THIS ONCE BEFORE, THAT THERE'S A SENTENCE
19 THAT SAYS HAS THE APPLICANT BUSINESS EVER
20 EXPERIENCED FORECLOSURE, REPOSSESSION, DEBT,
21 JUDGMENT, OR CRIMINAL PENALTIES, PENALTY WITHIN
22 THE LAST SEVEN YEARS? SOMEBODY HAS BEEN --
23 COMMITTED A CRIME, WOULDN'T WE WANT TO KNOW THAT
24 WHETHER IT WAS TWO YEARS AGO OR TEN YEARS AGO?

25 MS. TRGOVCICH: MR. CHAIRMAN, I BELIEVE
I

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1 DISCUSSED THAT WITH YOUR ADVISOR, SUSAN WESTLAKE.
2 AND THE ANSWER IS YES, BUT THERE BECOMES A POINT
3 AT WHICH ANY APPLICANT NEEDS TO BE FREE TO PURSUE
4 A LIFE WITHOUT THE, YOU KNOW, THE AURA HANGING
5 OVER THEM. I BELIEVE THAT WE WENT ALONG THE LINES
6 OF STANDARD LENDING PRACTICE IN THE APPLICATION
7 PROCESS HERE.

8 MR. YOUNG: WHAT WE DID IS BASICALLY
9 RECEIVED COPIES OF APPLICATIONS FROM OTHER LENDING
10 INSTITUTIONS AND OTHER PROGRAMS. SOME WERE SILENT
11 ON THE NUMBER OF YEARS; SOME INDICATED SEVEN. IT
12 BASICALLY RELATES BACK TO HOW LONG ADVERSE
13 ACTIONS, BANKRUPTCIES AND SUCH, REMAIN ON CREDIT
14 REPORTS WAS BASICALLY THE BACKGROUND ON THAT.

15 MS. TRGOVCICH: I THINK THAT WHERE WE
16 WERE COMING FROM WAS IS THERE'S SOME POINT AT
17 WHICH YOU STOP DIGGING AND, YOU KNOW --

18 MEMBER PENNINGTON: I THINK THAT'S RIGHT,
19 BUT SUPPOSING THE PERSON WAS CONVICTED OF
20 FRAUDULENT -- DEFRAUDING A BANK OF A COUPLE OF
21 MILLION BUCKS, AND WOULDN'T WE WANT TO KNOW THAT?

22 MS. TRGOVCICH: AND WE WOULD ACCORDING TO
23 THE STANDARD GUIDELINES.

24 MEMBER PENNINGTON: NOT IF THEY DID IT
25 TEN YEARS AGO.

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1 MR. YOUNG: A QUESTION TO LEGAL COUNSEL.
2 COULD IT BE ADDRESSED AS A NONSUBSTANTIVE CHANGE,
3 MERELY DELETING THE NUMBER OF YEARS?

4 MS. BORZELLERI: I THINK I'D HAVE TO LOOK
5 AT THAT. IT SEEMS TO ME THAT THAT IS SOMEWHAT OF
6 A SUBSTANTIVE CHANGE. MY FIRST IMPRESSION WOULD
7 BE, BUT I WOULD NEED TO LOOK AT IT AND COME BACK
8 TO YOU TOMORROW.

9 MEMBER PENNINGTON: I DON'T WANT TO SEND
10 IT OUT FOR ANOTHER 15 DAYS OVER THIS. I DO THINK
11 THAT IF SOMEBODY HAD BEEN CRIMINALLY CHARGED AND
12 CONVICTED OF EMBEZZLING OR DEFRAUDING AN INSURANCE
13 COMPANY OR DEFRAUDING A BANK, YOU KNOW, WE OUGHT
14 TO KNOW ABOUT IT WHETHER IT WAS SEVEN YEARS AGO OR
15 17 YEARS AGO.

16 MS. TRGOVCICH: I THINK THAT WHERE WE
17 WERE COMING FROM, MR. CHAIRMAN, I DON'T MEAN TO BE
18 REPEATING, IS THAT AT SOME POINT SOMEONE NEEDS TO
19 BE ABLE TO WALK IN AND NOT HAVE THAT BIAS OR
20 PREJUDICE AGAINST THEM. IF WE DID SAY TEN, THEN
21 WHAT HAPPENS IF IT OCCURRED 12 YEARS AGO?

22 MEMBER PENNINGTON: I WOULDN'T PUT A TIME
23 LINE ON IT. I MEAN I'M CERTAINLY WILLING TO BE
24 FORGIVING OF PEOPLE'S TRANSGRESSIONS. THAT'S

NOT
25 WHAT I'M TRYING TO SAY, BUT THERE ARE PEOPLE WHO

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1 COMMIT MAJOR CRIMES. AND WE'RE ONLY LIMITING IT
2 TO SEVEN YEARS.

3 CHAIRMAN RELIS: YOU'RE WILLING TO BE
4 FORGIVING, BUT YOU'D LIKE TO KNOW WHEN THE
5 TRANSGRESSION OCCURRED.

6 MEMBER PENNINGTON: YEAH, I'D LIKE TO
7 KNOW WHAT I'M FORGIVING.

8 MEMBER CHESBRO: I HAVE A COUPLE OF
9 RESPONSES. ONE IS I AGREE. I MEAN I THINK
10 GETTING A LOAN FROM THE STATE IS A PRIVILEGE, NOT
11 A RIGHT. SO IT'S NOT LIKE, YOU KNOW, THE RIGHT TO
12 VOTE OR, YOU KNOW, SOME OTHER BASIC -- OR THE
13 RIGHT TO DRIVE. WE'RE TALKING ABOUT GIVING
14 SOMEBODY MONEY AND TRUSTING THEM WITH IT.

15 BUT I ASSUME FROM OR I'M GUESSING
16 THAT THE SEVEN YEARS IS FAIRLY STANDARD PRACTICE
17 FOR FORECLOSURE, REPOSSESSION, AND JUDGMENTS. AND
18 SO WE PROBABLY NEED -- IF WE WERE GOING TO GO DOWN
19 THE PATH THAT MR. PENNINGTON IS SUGGESTING, THAT
20 WE MIGHT WANT TO SEPARATE THESE ISSUES AND STILL
21 HAVE SEVEN YEARS FOR THOSE ITEMS, BUT THE QUESTION
22 IS SPECIFICALLY FOR QUESTION OF CRIMINAL PENALTY,
23 WHETHER THAT'S ADEQUATE TO SAY, WELL, WE KNOW THEY
24 HAVEN'T DONE IN IT SEVEN YEARS.

25 MS. TRGOVCICH: I THINK WHEN WE

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1 RESEARCHED IT, THOSE APPLICATIONS THAT DID SPECIFY
2 A TIME FRAME WERE MORE LIKELY THAN NOT TO SPECIFY
3 THE SEVEN YEARS. SOME DIDN'T SPECIFY AT ALL. MY
4 REQUEST WOULD BE THAT IF YOU CHOOSE TO PURSUE THAT
5 CHANGE, SINCE IT WOULD BE THE ONLY ONE, THAT WE
6 SAY WE'LL INCORPORATE THAT CHANGE INTO THE NEXT
7 ROUND OF RULEMAKING ON THESE REGULATIONS.

8 MEMBER PENNINGTON: I DON'T WANT TO SEE
9 YOU SEND IT OUT FOR ANOTHER 15 DAYS OVER THAT
10 ISSUE.

11 CHAIRMAN RELIS: ANY OTHER COMMENTS?
12 OKAY. BEFORE WE MOVE ON THIS ITEM, COULD WE BE
13 CLEAR THAT IS THIS A SINGLE RESOLUTION THAT WE'RE
14 LOOKING FOR HERE AS SHOWN IN ATTACHMENT 3?

15 MS. BORZELLERI: YES, WE CAN DO A SINGLE
16 RESOLUTION. WHAT DO NEED PROBABLY ARE TWO MOTIONS
17 BECAUSE WE HAVE A CEQA ACTION.

18 CHAIRMAN RELIS: OKAY. ALL RIGHT. SO
19 THE FIRST MOTION WOULD BE ON THE CEQA?

20 MS. BORZELLERI: CORRECT.

21 MEMBER CHESBRO: I'LL MOVE STAFF
22 RECOMMENDATION ON CEQA.

23 MEMBER PENNINGTON: SECOND.

24 CHAIRMAN RELIS: IT'S BEEN MOVED AND
25 SECONDED. WE'LL CALL THE ROLL.

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1 THE SECRETARY: MEMBER CHESBRO.

2 MEMBER CHESBRO: AYE.

3 THE SECRETARY: MEMBER PENNINGTON.

4 MEMBER PENNINGTON: AYE.

5 THE SECRETARY: CHAIRMAN RELIS.

6 CHAIRMAN RELIS: AYE. OKAY. AND NOW ON
7 THE ACTUAL RESOLUTION.

8 MEMBER PENNINGTON: I'LL MOVE ADOPTION OF
9 THE STAFF RECOMMENDATION.

10 MEMBER CHESBRO: SECOND.

11 CHAIRMAN RELIS: OKAY. RESOLUTION 97-211
12 HAS BEEN MOVED.

13 MEMBER CHESBRO: YOU WANT TO ADD TO THAT
14 TO ASK STAFF TO COME BACK AT THE NEXT RULEMAKING
15 ON THE QUESTION OF THE CRIMINAL PENALTIES?

16 CHAIRMAN RELIS: DO YOU WANT THAT IN
17 THERE?

18 MEMBER PENNINGTON: SURE.

19 MS. TRGOVCICH: SO THE NEXT TIME THAT WE
20 INITIATE A RULEMAKING WITHIN THESE REGULATIONS,
21 THAT WE WILL FOLD IN THAT, ANY CHANGE THAT NEEDS
22 TO OCCUR THERE.

23 MEMBER PENNINGTON: CORRECT.

24 CHAIRMAN RELIS: IS THAT CLEAR? OKAY.
25 IT'S BEEN MOVED AND SECONDED. WE'LL CALL THE

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1 ROLL.

2 THE SECRETARY: MEMBER CHESBRO.

3 MEMBER CHESBRO: AYE.

4 THE SECRETARY: MEMBER PENNINGTON.

5 MEMBER PENNINGTON: AYE.

6 THE SECRETARY: CHAIRMAN RELIS.

7 CHAIRMAN RELIS: AYE.

8 MS. TRGOVCICH: MR. CHAIRMAN, IF I COULD

9 JUST -- BECAUSE I KNOW IT BECOMES UNCLEAR FOR MANY

10 INTERESTED PARTIES WHEN THEY KNOW THAT THE BOARD

11 HAS ADOPTED A REGULATIONS PACKAGE TO SAY, OKAY,

12 WHEN IS THIS READY? WHEN IS THIS GOING?

13 TYPICALLY IT TAKES UPWARDS OF A MONTH TO PREPARE A

14 RULEMAKING FILE ONCE THE BOARD HAS ADOPTED THE

15 REGULATIONS.

16 ONCE THAT RULEMAKING FILE IS

17 COMPLETED, THAT THEN GETS FORWARDED TO THE OFFICE

18 OF ADMINISTRATIVE LAW, THAT THEN HAS 30 OR 30

WORKING DAYS, WHICH APPROXIMATELY IS ABOUT 45

CALENDAR DAYS, TO DO THEIR REVIEW OF THE PACKAGE.

SO I JUST WANT TO GO ON RECORD SAYING THAT IT'S

NOT GOING TO JUST HAPPEN IN THE NEXT WEEK OR TWO.

THERE'S A SIGNIFICANT AMOUNT OF WORK IN FRONT OF

US NOW TO PREPARE THE FINAL RULEMAKING FILE.

 CHAIRMAN RELIS: OKAY. ALL RIGHT. THAT

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1 COMPLETES OUR BUSINESS FOR TODAY, SO WE ARE
ADJOURNED.

4 (THE MEETING WAS THEN ADJOURNED AT
2:08 P.M.)

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